

In the Drawings:

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### REMARKS

The Applicant appreciates the thorough review of the Application by the Examiner. Reconsideration and allowance of all claims are respectfully requested. Claims 1-13 have been withdrawn and Claims 14-26 are now pending in the Application. No new matter has been added by the amendment. No new issues are raised by the amendment.

**Claims 14 - 26 are patentable under the judicial doctrine of obviousness-type double patenting over U.S. Patent 6,084,148.**

In order to invoke the judicial doctrine of obviousness-type double patenting, the Examiner must find that the claims of the Application are not patentably distinct from the claims of the reference- in other words, are anticipated or would have been obvious over the reference claims. In this case, the Examiner argues that the claims of the Application would have been obvious over those of '148.

'148 teaches a method for reacting pyrophoric gas. A turbulent first gas mixture including an oxidizing species enters a chamber. Downstream, a second gas mixture including a pyrophoric gas enters the chamber and mixes with the turbulent first gas mixture, reacting the pyrophoric gas in a controlled manner without risk of explosion. (Claim 1)

In contrast, Claim 14 of the present invention teaches a gas treatment method using a chemical agent treatment container and a dynamic oxidizer chamber. The chemical agent treatment container is filled with chemical agent through its fill port and spent chemical agent is drained out its drain port. A gas inlet admits gas for treatment into the chemical agent treatment container which is treated by the chemical agent and removed from the container via a gas transfer conduit to the dynamic oxidizer chamber. There, oxygen supplied to the chamber via an

oxygen inlet oxidizes components of the gas and the gas flows out of the chamber via a gas outlet.

'148 differs from the present invention at least in that it does not teach treatment with a chemical agent or a chemical agent treatment container, fill port, drain port, gas inlet, gas transfer conduit, oxygen inlet, gas outlet, etc. There is absolutely no reference in '148 to chemical agents. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

The present invention is patentable over '148 at least because '148 does not teach or suggest all the claim limitations. The Examiner argues that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a container, ports, and other apparatus features to perform the claimed method of Patent '148."

Applicant cannot agree. Applicant traverses the Examiner's holding of obviousness without citing to art. It would not have been obvious to provide the apparatus features of the present claims for multiple reasons. First, because the particular structure of the claimed invention is not known and is the invention of the Applicant. Second, because there would have been no motivation to provide the apparatus features of the present invention to practice the method of '148, which has nothing to do with chemical agents. Therefore, as an example, it would be nonsensical to provide a chemical agent treatment container for the method of '148.

Furthermore, there are other affirmative method steps beyond the provision of various structural components that are taught by the claimed invention but not by '148. For example, '148 does not teach or suggest the following elements of Claim 14: 1) filling the chemical agent treatment container with chemical agent 2) emptying spent chemical agent from the chemical agent treatment container through the drain port 3) admitting gas to be treated to the container and 4) removing chemical agent treated gas from the container through the transfer conduit.

For at least the above reasons, Claim 14 is not obvious over '148 and therefore is patentably distinct from '148. Claims 15-26 depend from Claim 14 and add further patentable features. Examples are given below.

Claims 15 depends from Claim 14 and adds providing a clamp and connecting the chemical agent container to the oxidizer chamber with the clamp. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

Claims 16 depends from Claim 15 and adds that the container further comprises providing a tank positioned above the chamber, and wherein providing the chamber further comprises providing a dynamic oxidizer chamber. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

Claims 17 depends from Claim 16 and adds providing a first flange around a bottom of the tank, and providing a second complementary flange around a top of the dynamic oxidizer chamber, and wherein providing the clamp is providing a quick connect clamp, engaging the first

and second flanges and quickly connecting and disconnecting the clamp from the flanges and thereby connecting the chamber with the tank and separating the chamber from the tank. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

Claims 18 depends from Claim 17 and adds providing a filter in the chamber and connecting the gas outlet to an inside of the filter. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

Claims 19 depends from Claim 18 and adds providing a screen in a top of the chamber and directing the gas transfer conduit and the oxygen inlet toward the screen, and flowing gas and oxygen through the screen into the chamber. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

Claims 20 depends from Claim 19 and adds providing the oxygen inlet comprises providing an air inlet, and mixing oxygen in the air with the gas in the chamber. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

Claims 21 depends from Claim 20 and adds providing the gas transfer conduit within the air inlet, and flowing gas and air toward the screen. No reference teaches or suggests this

feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

Claims 22 depends from Claim 21 and adds providing a pitot tube in the air inlet, and measuring air flowing through the air inlet into the chamber. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

Claims 23 depends from Claim 22 and adds that the chemical agent drain port is provided above the chamber for removing chemical agent after the chamber has been removed, and further comprising providing a removable cover plate on the chemical agent drain port. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

Claims 24 depends from Claim 23 and adds providing the filter is providing a large filter which occupies about half of the chamber and further comprising providing a filter plate covering the filter, and connecting the gas outlet is to the filter plate. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

Claims 25 depends from Claim 24 and adds providing the air inlet and the gas outlet further comprises providing tubes which extend into and through the chemical agent tank and out the bottom of the chemical agent tank and into a top of the dynamic oxidation chamber, and

removing the chamber may from the tank without disturbing connections of the air inlet and the gas outlet. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

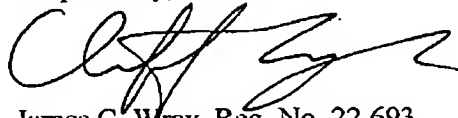
Claims 26 depends from Claim 25 and adds providing the air inlet and the gas outlet tubes comprises providing L-shaped tubes and extending the tubes into the tank through sides of the tank. No reference teaches or suggests this feature, nor does the Examiner argue otherwise. To the extent that the Examiner is making a holding of obviousness without citing to art, Applicant traverses this holding for the reasons given above with respect to the rejection of Claim 14.

For at least the above reasons, the claims of the present invention are patentably distinct from those of '148. Therefore the rejection of Claims 14-26 under the judicial doctrine of obviousness-type double patenting over '148 is improper and should be withdrawn.

### CONCLUSION

Reconsideration and allowance of the application are respectfully requested.

Respectfully,



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